



Reprinted
March 1, 2005

SENATE BILL No. 360

DIGEST OF SB 360 (Updated February 28, 2005 5:40 pm - DI 97)

Citations Affected: IC 5-10; IC 16-18; IC 16-40; IC 27-8; IC 27-13; noncode.

Synopsis: Coverage of surgery for morbid obesity. Removes language in the morbid obesity definition that refers to weight guidelines in the Metropolitan Life Insurance table. Specifies certain requirements for coverage for surgical treatment of morbid obesity under: (1) a state employee health plan; (2) an accident and sickness insurance policy; and (3) a health maintenance organization contract. Requires monitoring of patients and reporting of specified information by physicians to the state department of health.

Effective: July 1, 2005.

Miller

January 11, 2005, read first time and referred to Committee on Health and Provider Services.

February 3, 2005, amended, reported favorably — Do Pass.

February 17, 2005, ordered engrossed.

February 18, 2005, engrossed.

February 21, 2005, returned to second reading.

February 28, 2005, reread second time, amended, ordered engrossed.

C
o
p
y

SB 360—LS 7121/DI 104+



First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

SENATE BILL No. 360

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-10-8-7.7 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7.7. **(a) As used in this**
3 **section, "covered individual" means an individual who is:**

4 **(1) covered under a self-insurance program established under**
5 **section 7(b) of this chapter to provide group health coverage;**
6 **or**

7 **(2) entitled to services under a contract with a prepaid health**
8 **care delivery plan that is entered into or renewed under**
9 **section 7(c) of this chapter.**

10 ~~(a)~~ **(b)** As used in this section, "health care plan" means:

11 (1) a self-insurance program established under section 7(b) of this
12 chapter to provide group health coverage; or

13 (2) a contract entered into under section 7(c) of this chapter to
14 provide health services through a prepaid health care delivery
15 plan.

16 ~~(b)~~ **(c)** As used in this section, "health care provider" means a:

17 (1) physician licensed under IC 25-22.5; or



C
o
p
y

(2) hospital licensed under IC 16-21;
that provides health care services for surgical treatment of morbid
obesity.

~~(c)~~ **(d)** As used in this section, "morbid obesity" means:

~~(1)~~ a weight of at least two ~~(2)~~ times the ideal weight for frame,
age, height, and gender, as specified in the ~~1983~~ Metropolitan
Life Insurance tables;

~~(2)~~ **(1)** a body mass index of at least thirty-five (35) kilograms per
meter squared, with comorbidity or coexisting medical conditions
such as hypertension, cardiopulmonary conditions, sleep apnea,
or diabetes; or

~~(3)~~ **(2)** a body mass index of at least forty (40) kilograms per
meter squared without comorbidity.

For purposes of this subsection, body mass index is equal to weight in
kilograms divided by height in meters squared.

~~(d)~~ **(e)** Except as provided in subsection (f), the state shall provide
coverage for nonexperimental, surgical treatment by a health care
provider of morbid obesity:

(1) that has persisted for at least five (5) years; and

(2) for which nonsurgical treatment that is supervised by a
physician has been unsuccessful for at least eighteen (18)
consecutive months.

**(f) The state may not provide coverage for surgical treatment of
morbid obesity for a covered individual who is less than twenty-one
(21) years of age unless two (2) physicians licensed under
IC 25-22.5 determine that the surgery is necessary to save the life
of the individual and each physician documents on the patient's
medical chart the reason the physician determined that the surgery
is necessary to:**

(1) save the life of the covered individual; or

**(2) restore the covered individual's ability to maintain a
major life activity (as defined in IC 4-23-29-6).**

SECTION 2. IC 16-18-2-240.5 IS ADDED TO THE INDIANA
CODE AS A NEW SECTION TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2005]: **Sec. 240.5. "Morbid obesity", for
purposes of IC 16-40-3, has the meaning set forth in IC 16-40-3-1.**

SECTION 3. IC 16-40-3 IS ADDED TO THE INDIANA CODE AS
A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
1, 2005]:

**Chapter 3. Reporting of Deaths or Complications From Morbid
Obesity Surgeries**

Sec. 1. As used in this chapter, "morbid obesity" means:

C
o
p
y



(1) a body mass index of at least thirty-five (35) kilograms per meter squared, with comorbidity or coexisting medical conditions such as hypertension, cardiopulmonary conditions, sleep apnea, or diabetes; or

(2) a body mass index of at least forty (40) kilograms per meter squared without comorbidity.

For purposes of this section, body mass index is equal to weight in kilograms divided by height in meters squared.

Sec. 2. (a) A physician who is licensed under IC 25-22.5 and who performs a surgical treatment for the treatment of morbid obesity shall:

(1) monitor the patient for five (5) years following the patient's surgery; and

(2) report:

(A) to; and

(B) in a manner prescribed by;

the state department any death or serious complication of a patient who receives surgical treatment for morbid obesity.

(b) The report required in subsection (a) must include the following information:

(1) The gender of the patient.

(2) The name of the physician who performed the surgery.

(3) The location in which the surgery was performed.

(4) Information concerning the death or complication and the circumstances behind the death or complication.

Sec. 3. (a) The state department shall collect and maintain the information reported to the state department under section 2 of this chapter.

(b) The records under subsection (a)(2) are public records and are subject to public inspection. However, the state department may not release any information in the records that the state department determines may identify the patient's identity.

Sec. 4. A physician who knowingly violates this chapter may be subject to disciplinary sanctions under IC 25-1-9 as if the physician had knowingly violated a rule adopted by the medical licensing board under IC 25-22.5-2-7.

Sec. 5. The state department shall adopt rules under IC 4-22-2 necessary to implement this chapter.

Sec. 6. This chapter expires June 30, 2010.

SECTION 4. IC 27-8-14.1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. As used in this chapter, "morbid obesity" means:

C
o
p
y



(1) a weight of at least two (2) times the ideal weight for frame, age, height, and gender, as specified in the 1983 Metropolitan Life Insurance tables;

(2) (1) a body mass index of at least thirty-five (35) kilograms per meter squared, with comorbidity or coexisting medical conditions such as hypertension, cardiopulmonary conditions, sleep apnea, or diabetes; or

(3) (2) a body mass index of at least forty (40) kilograms per meter squared without comorbidity.

For purposes of this section, body mass index is equal to weight in kilograms divided by height in meters squared.

SECTION 5. IC 27-8-14.1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. **(a) Except as provided in subsection (b),** an insurer that issues an accident and sickness insurance policy shall offer coverage for nonexperimental, surgical treatment by a health care provider of morbid obesity:

(1) that has persisted for at least five (5) years; and

(2) for which nonsurgical treatment that is supervised by a physician has been unsuccessful for at least eighteen (18) consecutive months.

(b) An insurer that issues an accident and sickness insurance policy may not provide coverage for a surgical treatment of morbid obesity for an insured who is less than twenty-one (21) years of age unless two (2) physicians licensed under IC 25-22.5 determine that the surgery is necessary to save the life of the individual and each physician documents on the patient's medical chart the reason that the physician determined that the surgery is necessary to:

(1) save the life of the insured; or

(2) restore the insured's ability to maintain a major life activity (as defined in IC 4-23-29-6).

SECTION 6. IC 27-13-7-14.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14.5. (a) As used in this section, "health care provider" means a:

(1) physician licensed under IC 25-22.5; or

(2) hospital licensed under IC 16-21;

that provides health care services for surgical treatment of morbid obesity.

(b) As used in this section, "morbid obesity" means:

(1) a weight of at least two (2) times the ideal weight for frame, age, height, and gender as specified in the 1983 Metropolitan Life Insurance tables;

C
o
p
y



~~(2)~~ (1) a body mass index of at least thirty-five (35) kilograms per meter squared with comorbidity or coexisting medical conditions such as hypertension, cardiopulmonary conditions, sleep apnea, or diabetes; or

~~(3)~~ (2) a body mass index of at least forty (40) kilograms per meter squared without comorbidity.

For purposes of this subsection, body mass index equals weight in kilograms divided by height in meters squared.

(c) **Except as provided in subsection (d)**, a health maintenance organization that provides coverage for basic health care services under a group contract shall offer coverage for nonexperimental, surgical treatment by a health care provider of morbid obesity:

(1) that has persisted for at least five (5) years; and

(2) for which nonsurgical treatment that is supervised by a physician has been unsuccessful for at least eighteen (18) consecutive months.

(d) A health maintenance organization that provides coverage for basic health care services may not provide coverage for surgical treatment of morbid obesity for an enrollee who is less than twenty-one (21) years of age unless two (2) physicians licensed under IC 25-22.5 determine that the surgery is necessary to save the life of the individual and each physician documents on the patient's medical chart the reason that the physician determined that the surgery is necessary to:

(1) save the life of the enrollee; or

(2) restore the enrollee's ability to maintain a major life activity (as defined in IC 4-23-29-6).

SECTION 7. [EFFECTIVE JULY 1, 2005] (a) IC 5-10-8-7.7(f), as added by this act, applies to a self-insurance program or a contract with a prepaid health care delivery plan that is established, entered into, delivered, amended, or renewed after June 30, 2005.

(b) IC 27-8-14.1-4(b), as added by this act, applies to an accident and sickness insurance policy that is issued, delivered, amended, or renewed after June 30, 2005.

(c) IC 27-13-7-14.5(d), as added by this act, applies to a health maintenance organization contract that is entered into, delivered, amended, or renewed after June 30, 2005.

C
o
p
y



COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 360, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, delete lines 28 through 42.

Page 3, delete lines 1 through 7.

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 360 as introduced.)

MILLER, Chairperson

Committee Vote: Yeas 10, Nays 0.

C
o
p
y



SENATE MOTION

Madam President: I move that Senate Bill 360, which is eligible for third reading, be returned to second reading for purposes of amendment.

MILLER

SENATE MOTION

Madam President: I move that Senate Bill 360 be amended to read as follows:

Page 2, line 24, delete "nineteen" and insert "**twenty-one (21)**".

Page 2, line 25, delete "(19)".

Page 2, line 27, delete "individual." and insert "**individual and each physician documents on the patient's medical chart the reason the physician determined that the surgery is necessary to save the life of the individual.**".

Page 2, between lines 27 and 28, begin a new paragraph and insert:

"SECTION 2. IC 16-18-2-240.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 240.5. "Morbid obesity", for purposes of IC 16-40-3, has the meaning set forth in IC 16-40-3-1.**

SECTION 3. IC 16-40-3 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 3. Reporting of Deaths or Complications From Morbid Obesity Surgeries

Sec. 1. As used in this chapter, "morbid obesity" means:

- (1) a body mass index of at least thirty-five (35) kilograms per meter squared, with comorbidity or coexisting medical conditions such as hypertension, cardiopulmonary conditions, sleep apnea, or diabetes; or**
- (2) a body mass index of at least forty (40) kilograms per meter squared without comorbidity.**

For purposes of this section, body mass index is equal to weight in kilograms divided by height in meters squared.

Sec. 2. (a) A physician who is licensed under IC 25-22.5 and who performs a surgical treatment for the treatment of morbid obesity shall:

- (1) monitor the patient for five (5) years following the patient's surgery; and**

SB 360—LS 7121/DI 104+



C
O
P
Y

(2) report:

(A) to; and

(B) in a manner prescribed by;

the state department any death or serious complication of a patient who receives surgical treatment for morbid obesity.

(b) The report required in subsection (a) must include the following information:

(1) The gender of the patient.

(2) The name of the physician who performed the surgery.

(3) The location in which the surgery was performed.

(4) Information concerning the death or complication and the circumstances behind the death or complication.

Sec. 3. (a) The state department shall collect and maintain the information reported to the state department under section 2 of this chapter.

(b) The records under subsection (a)(2) are public records and are subject to public inspection. However, the state department may not release any information in the records that the state department determines may identify the patient's identity.

Sec. 4. A physician who knowingly violates this chapter may be subject to disciplinary sanctions under IC 25-1-9 as if the physician had knowingly violated a rule adopted by the medical licensing board under IC 25-22.5-2-7.

Sec. 5. The state department shall adopt rules under IC 4-22-2 necessary to implement this chapter.

Sec. 6. This chapter expires June 30, 2010."

Page 3, line 11, delete "nineteen (19)" and insert "twenty-one (21)".

Page 3, line 14, delete "individual." and insert "**individual and each physician documents on the patient's medical chart the reason that the physician determined that the surgery is necessary to save the life of the individual.**".

Page 4, line 3, delete "nineteen (19)" and insert "twenty-one (21)".

Page 4, line 5, delete "individual." and insert "**individual and each physician documents on the patient's medical chart the reason that the physician determined that the surgery is necessary to save the life of the individual.**".

Renumber all SECTIONS consecutively.

(Reference is to SB 360 as printed February 4, 2005.)

MILLER

C
O
P
Y



SENATE MOTION

Madam President: I move that Senate Bill 360 be amended to read as follows:

Page 2, line 26, after "to" insert ":

(1)".

Page 2, line 27, delete "individual." and insert "**covered individual;**
or

(2) restore the covered individual's ability to maintain a major life activity (as defined in IC 4-23-29-6)."

Page 3, line 13, after "to" insert ":

(1)".

Page 3, line 14, delete "individual." and insert "**insured; or**

(2) restore the insured's ability to maintain a major life activity (as defined in IC 4-23-29-6)."

Page 4, line 4, after "to" insert ":

(1)".

Page 4, line 5, delete "individual." and insert "**enrollee; or**

(2) restore the enrollee's ability to maintain a major life activity (as defined in IC 4-23-29-6)."

(Reference is to SB 360 as printed February 4, 2005.)

SIMPSON

C
o
p
y

